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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,902	02/23/2004	Max Stanford Tomlinson JR.	03191.000100.	7510
5514 7590 02/17/2010 FITZPATRICK CELLA HARPER & SCINTO 1290 Avenue of the Americas NEW YORK, NY 10104-3800				
EXAMINER				
COBANOGILU, DILEK B				
ART UNIT		PAPER NUMBER		
3626				
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02/17/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/782,902

Applicant(s)

TOMLINSON ET AL.

Examiner

DILEK B. COBANOGU

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/200)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment received on 10/13/2009. Claims 17-36 remain pending.

Specification

New Matter

2. The new matter and 35 U.S.C. 112, first paragraph rejection of claims 30-36 have been withdrawn since the Applicant cancelled some of the newly added structural terms used before from the claims and provided some explanation for the rest of the terms.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 17-22, 28, 30-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jamroga et al. (hereinafter Jamroga) (U.S. Patent No. 6,574,742 B1) in view of Satoh (U.S. Patent Publication No. 2002/0059236 A1).

A. Claim 17 has been amended now to recite a method of authorizing access to medical image data generated by one or more imaging facilities, comprising the steps of;

- i. receiving digital medical image data generated by the one or more imaging facilities via a network at a server (Jamroga; col. 6, line 64 to col. 7, line 44, col. 8, lines 44-67);
- ii. storing the digital medical image data at the server (Jamroga; col. 6, line 64 to col. 7, line 44, col. 8, lines 44-67);
- iii. providing an authorized user with access to at least a part of the stored digital image data via an authorization process on the network (Jamroga; col. 5, lines 7-10, col. 6, line 64 to col. 7, line 44, col. 8, lines 44-67);
- iv. displaying a list of the authorized image data to which the authorized user has access (Jamroga; col. 5, lines 21-27, col. 14, line 11 to col. 5, line 4),
- v. enabling the authorized user to select digital image data to be granted rights to access from among the authorized image data by using the displayed list (Jamroga; col. 12, line 66 to col. 13, line 21, col. 14, line 11 to col. 5, line 4), and
- vi. enabling the authorized user to grant an individual other than the authorized user rights to access the selected image data.

Jamroga teaches method for storing and accessing digital medical images; Jamroga fails to expressly teach enabling the authorized user to grant an individual other than the authorized user rights to

access the selected image data. However, this feature is well known in the art, as evidenced by Satoh.

In particular, Satoh discloses teach enabling the authorized user to grant an individual other than the authorized user rights to access the selected data (Satoh; paragraphs: 0010-0011, 0025-0029, figure 2).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Satoh with the motivation of controlling access rights concisely in an environment wherein a number of users on the network use data in common (Satoh; paragraph: 0009).

B. Claims 18-22 and 28 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 18-22 and 28 are rejected for the same reasons given in the previous Office Action (paper number 5-7), and incorporated herein.

C. Claim 30 has been amended now to recite a server system for authorizing access to medical image data generated by one or more imaging facilities, comprising:

- i. a receiving unit constructed to receive digital medical image data generated by the one or more imaging facilities via a network (Jamroga; col. 6, line 64 to col. 7, line 44, col. 8, lines 44-67);

- ii. a storage unit constructed to store the digital medical image data (Jamroga; col. 6, line 64 to col. 7, line 44, col. 8, lines 44-67);
- iii. an authorizing unit constructed to provide an authorized user with access to at least a part of the stored digital image data via an authorization process on the network (Jamroga; col. 5, lines 7-10, col. 6, line 64 to col. 7, line 44, col. 8, lines 44-67);
- iv. a display unit for displaying a list of the authorized image data to which the authorized user has access (Jamroga; col. 5, lines 21-27, col. 14, line 11 to col. 5, line 4); and
- v. an enabling unit constructed to enable the authorized user to select digital image data to be granted rights to access from among the authorized image data by using the displayed list (Jamroga; col. 12, line 66 to col. 13, line 21, col. 14, line 11 to col. 5, line 4), and constructed to enable the authorized user to grant an individual other than the authorized user rights to access the selected image data.

The obviousness of modifying the teaching of Jamroga to include enabling the authorized user to grant an individual other than the authorized user rights to access the selected image data (as taught by Satoh) is as addressed above in the rejection of claim 17 and incorporated herein.

- D. As per amended claims 31-33, and 35, they are system claims which repeat the same limitations of claims 18, 20, 21, 22, 28, the corresponding

method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of Jamroga and Satoh disclose the underlying process steps that constitute the methods of claims 18, 20, 21, 22, 28, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 31-33, and 35 are rejected for the same reasons given above for claims 18, 20, 21, 22, 28 and incorporated herein.

5. Claims 23-26, 29 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jamroga et al. (hereinafter Jamroga) (U.S. Patent No. 6,574,742 B1,) Satoh (U.S. Patent Publication No. 2002/0059236 A1) and further in view of Wood et al. (hereinafter Wood) (U.S. Patent No. 5,851,186).

A. Claims 23-26, 29 and 36 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 23-26, 29 and 36 are rejected for the same reasons given in the previous Office Action (paper number 8-13), and incorporated herein.

6. Claim 27 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jamroga et al. (hereinafter Jamroga) (U.S. Patent No. 6,574,742 B1), Satoh (U.S. Patent Publication No. 2002/0059236 A1) and further in view of Peled et al. (hereinafter Peled) (U.S. Patent Publication No. 2005/0066165 A1).

A. Claim 27 has not been amended, and Applicant does not appear to argue the separate patentability of this claim. As such, claim 27 is rejected for the

same reasons given in the previous Office Action (paper number 13-14), and incorporated herein.

B. As per claim 34, it is a system claim, which repeats the same limitations of claim 27, the corresponding method claim, as a collection of elements as opposed to a series of process steps. Since the teachings of Jamroga Satoh and Peled disclose the underlying process steps that constitute the methods of claim 27, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claim 34 are rejected for the same reasons given above for claim 27 and incorporated herein.

Response to Arguments

7. Applicant's arguments filed 10/13/2009 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in the order in which they appear.

A. In response to Applicant's argument about Jamroga does not teach "enabling an authorized user to select a subset of authorized image data, and enabling an authorized user to select authorized digital image data to be granted rights to access using a displayed list of authorized image data"; Examiner respectfully submits that claim 17 recites: (1) "enabling the authorized user to select digital image data to be granted rights to access from among the authorized image data by using the displayed list, and (2) enabling the authorized user to grant an individual other than the authorized user rights to access the selected image data"; Jamroga teaches "...communication device and method

permitting real time access to stored or archived data and images from remote locations" in col. 5, lines 21-27, "Referring to FIGS. 6 and 7, the device and method 10, in accordance with the invention, provides query, storage and retrieval functions thereby providing participant institutions 14 and their institution satellite locations 18 with the ability to transmit and communicate request to the device and method 10 preferably for the purpose of electronically querying to the system with instruction sets for information, and making data and/or image storage or retrieval requests for either the storage of data and images to the central database 12 or **the retrieval of data and images** from the central database 12." In col. 13, lines 22-32, and "retrieval of data and images" as described in col. 14, line 11 to col. 15, line 4. As such, Examiner considers a broad yet reasonable interpretation of Jamroga to also teach Applicant's recitation of displaying a list of images since Jamroga teaches "a request for retrieval of data and images". Satoh teaches "The present invention resolves the above problem. More specifically, when the reference information for data to be used in common is transmitted in communication such as an electronic mail from a granter to another user, information including the name of target data and of the user who is permitted to access the data is automatically obtained and a command granting access rights is automatically issued, so that access management data can be updated in the process of user communication." In paragraphs 0009 and 0010. The motivation to combine these references would

be to be controlling access rights concisely in an environment wherein a number of users on the network use data in common (Sato; paragraph: 0009).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
9. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **DILEK B. COBANOGLU** whose telephone number is (571)272-8295. The examiner can normally be reached on 8-4:30.
11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on 571-272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. B. C./
Examiner, Art Unit 3626
2/7/2010

/C. Luke Gilligan/
Primary Examiner, Art Unit 3626